

EDUCATION DEPARTMENT[281]

Adopted and Filed

Pursuant to the authority of Iowa Code section 256.7(21), the State Board of Education hereby rescinds Chapter 65, “Innovative Programs for At-Risk Early Elementary Students,” and adopts a new Chapter 65, “Programs for At-Risk Early Elementary Students,” Iowa Administrative Code.

The new Chapter 65 will simplify the grant award process, distribute grant funds to school districts on a timeline that will allow for timely hiring and budgeting, and allow recipient school districts to spend more time on instruction and less time on preparing grant applications. New Chapter 65 will allow greater flexibility to local school districts in determining how best to provide grant-funded services at elementary school buildings with large numbers of at-risk students.

An agencywide waiver provision is provided in 281—Chapter 4.

Notice of Intended Action was published in the February 15, 2017, Iowa Administrative Bulletin as **ARC 2939C**. Public comments were allowed until 4:30 p.m. on March 7, 2017, and a public hearing was held on that date. Two commenters from one school district appeared and offered comment about clearly specifying that activities and materials to improve academic achievement are allowable uses of funds, which comment was also provided in writing. An additional written comment requested, for purposes of this chapter, specifically aligning grant eligibility with student eligibility for free and reduced-price meals, which is the current practice for this grant. All commenters were in support of the Department’s rule making. Changes from the Notice were made to address these well-founded comments. The Iowa Department of Education also made additional nonsubstantive changes.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code sections 256.7(21) and 279.51(1)“c.”

These rules will become effective May 31, 2017.

The following amendment is adopted.

Rescind 281—Chapter 65 and adopt the following new chapter in lieu thereof:

CHAPTER 65

PROGRAMS FOR AT-RISK EARLY ELEMENTARY STUDENTS

281—65.1(279) Purpose. These rules set forth procedures and conditions under which state funds shall be granted to public school districts that have elementary schools that demonstrate the greatest need for programs for at-risk students in early elementary grades.

281—65.2(279) Definitions.

“*At-risk student*” means, for purposes of this chapter, a student in early elementary grades who is eligible for free or reduced-price meals.

“*Awardee*” means a public school district designated to receive the at-risk early elementary school award funds for buildings serving early elementary grades with a high percentage of at-risk students.

“*Department*” means the department of education.

“*Early elementary grades*” means kindergarten through grade three.

281—65.3(279) Eligibility identification procedures. In a year in which funds are made available by the Iowa legislature, the department shall grant awards to districts for buildings serving early elementary grades with a high percentage of at-risk students.

281—65.4(279) Award allocation procedure. Using a formula determined by the department, the department will distribute awards based on the number of early elementary students in the identified buildings serving a high percentage of at-risk students.

65.4(1) As specified in Iowa Code section 279.51(1) “c,” \$75,000 will be distributed to districts with an actual student population of less than 10,000 and an actual non-English speaking student population

of greater than 5 percent. These funds must be directed by the awardee to the building(s) serving the highest percentage of at-risk early elementary students.

65.4(2) Remaining funds will be allocated to school districts not meeting the threshold stated in subrule 65.4(1) for buildings serving the highest percentage of at-risk early elementary students. The department shall have final discretion regarding awarding of funds.

281—65.5(279) Award acceptance process. The department shall notify eligible districts of the opportunity to be granted an award for a three-year cycle. A district shall make formal acceptance using forms issued and procedures established by the department. Districts shall verify that an official with vested authority has approved the acceptance.

281—65.6(279) Awardee responsibilities. Each year the awardee shall complete reports on forms provided by the department, including the following:

1. An initial report including a proposed budget and expected outcomes.
2. A midyear report including expenditures through the end of the calendar year.
3. An end-of-the-year report including total expenditures and a statement of impact on expected outcomes.

281—65.7(279) Allowable expenditures. As set forth in Iowa Code section 279.51(1)“c,” school districts receiving awards shall, at a minimum, provide activities and materials designed to encourage children’s self-esteem, provide role modeling and mentoring techniques in social competence and social skills, and discourage inappropriate drug use. Additional allowable expenditures include salaries and benefits for teachers and paraeducators, and activities and materials to improve academic achievement. These funds shall be used for instruction, activities, and materials that are in addition to the regular school curricula for children participating in these programs and shall only be used in the building for which the award is made. Inappropriate uses of award funding include, but are not limited to, indirect costs or use charges, operational or maintenance costs, capital expenditures, student transportation other than that which is directly related to the activities and materials described in this rule, or administrative costs. Moneys received shall be subject to the general provisions described in rules 281—98.1(257) and 281—98.2(257).

281—65.8(279) Evaluation. The awardee shall cooperate with the department and provide requested information to determine how well the outcomes in rule 281—65.6(279) are being met. Statewide leadership teams will review final reports and provide useful feedback about buildings to awardees. This feedback will include information about innovative components to building programs. Buildings demonstrating innovation will be given preference the following grant cycle.

281—65.9(279) Budget revisions. The awardee shall obtain the approval of the department for any revisions in the proposed budget in excess of 10 percent of a line item, provided the revisions do not increase the total amount of the award.

281—65.10(279) Termination for convenience. The award may be terminated, in whole or in part, upon agreement of both parties. The parties shall agree upon the termination conditions, including the effective date, and in the case of partial termination, the portion to be terminated. The awardee shall not incur new obligations for the terminated portion after the effective date of termination and shall cancel as many outstanding obligations as possible.

281—65.11(279) Termination for cause. The award may be terminated, in whole or in part, at any time before the date of completion, whenever it is determined by the department that the awardee has failed to comply substantially with the conditions of the award. The awardee shall be notified in writing by the department of the reasons for the termination and the effective date. The awardee shall not incur new obligations for the terminated portion after the effective date of termination and shall cancel as many outstanding obligations as possible.

The department shall administer the at-risk early elementary school awards contingent upon the availability of state funds. If there is a lack of funds necessary to fulfill the fiscal responsibility of the awards, the awards shall be terminated or renegotiated. The department may terminate or renegotiate an award upon 30 days' notice when there is a reduction of funds by executive order.

281—65.12(279) Responsibility of awardee at termination. Within 45 days of the effective date of award termination, the awardee shall supply the department with a financial statement detailing all program expenditures up to the effective date of the termination. The awardee shall be solely responsible for all expenditures after the effective date of termination.

281—65.13(279) Appeals from terminations. Any awardee aggrieved by a unilateral termination of an award pursuant to rule 281—65.11(279) may appeal the decision to the director of the department in writing within 30 days of the decision to terminate.

65.13(1) *Form of appeal.* In the notice of appeal, the awardee shall give a short and plain statement of the reason for the appeal.

65.13(2) *Appeal procedures.* The hearing procedures found at 281—Chapter 6 shall be applicable to appeals of terminated awards. The director shall issue a decision within a reasonable time, not to exceed 120 days from the date of hearing.

65.13(3) *Grounds for reversal.* Termination of an award under this chapter shall be reversed only if the awardee proves the process was conducted outside of statutory authority; violated state or federal law, policy, or rule; did not provide adequate public notice; was altered without adequate public notice; or involved conflict of interest by staff or committee members.

65.13(4) *Mandatory denial of appeal.* In lieu of a decision on the merits of an appeal, the director of the department shall deny an appeal if the director finds any of the following:

- a.* The appeal is untimely;
- b.* The appellant lacks standing to appeal;
- c.* The appeal is not in the required form or is based upon frivolous grounds;
- d.* The appeal is moot because the issues raised in the notice of appeal or at the hearing have been settled by the parties; or
- e.* The termination of the award was beyond the control of the department due to lack of available funds.

These rules are intended to implement Iowa Code section 279.51.

[Filed 3/30/17, effective 5/31/17]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/26/17.